

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)	
City of Oakland)	CASE NO. 3602
Burt County, Nebraska)	
)	CONSENT ORDER
)	
FID # 57785)	
)	
Respondent.)	

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (hereinafter “Department”) and the City of Oakland, Burt County, Nebraska (hereinafter “Respondent”), voluntarily enter into this Consent Order to implement improvements to monitoring and environmental management controls at the Respondent’s facility. This Consent Order requires Respondent to comply with the activities and schedules specified in Section V. (Compliance Order and Schedule) below in accordance with the Nebraska Environmental Protection Act (the “Act”), Neb. Rev. Stat. §§ 81-1501 et. seq. (Reissue 2014, Cum. Supp. 2022), Title 119, Rules and Regulations Pursuant to the Issuance of Permits under the National Pollutant Discharge Elimination System (NPDES), and Title 123, Rules and Regulations for the Design Operation and Maintenance of Wastewater Works.

2. The Department and Respondent agree that settlement of this matter is in the public interest to ensure compliance with state laws, rules and regulations, and permits that have been adopted and issued to protect the environment.

II. JURISDICTION

3. The Department is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1), to exercise exclusive general supervision of the administration



prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.”

10. Pursuant to the Nebraska Environmental Quality Council’s authority to adopt rules and regulations for wastewater treatment facilities in Neb. Rev. Stat. § 81-1505(8) & (11), the Council adopted and promulgated Neb. Admin. Code, Title 123, Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works.

11. Title 123, Chapter 11, § 001 states: “Wastewater treatment facilities will be maintained in proper operating condition in accordance with this chapter and be operated in a manner to meet all NPDES permit requirements and not result in a prohibited bypass or an unauthorized discharge.”

12. Title 123, Chapter 11, § 004 states: “All mechanical devices, including standby or backup units, that are designed and installed in the original WWTF or lift station will be promptly repaired or replaced when they become inoperable.”

13. The City of Oakland was issued NPDES Permit No. NE0024023 (Permit), effective January 1, 2022, for the operation of the Oakland Wastewater Treatment Facility.

14. NPDES Permit No. NE0024023 requires Respondent to sample for ammonia, pH, CBOD, temperature, Total Suspended Solids (TSS), and *E.coli* (May to September) for Outfall 002. NPDES Permit No. NE0024023 requires Respondent to electronically submit discharge monitoring reports (DMRs) on a quarterly basis.

15. Appendix A of NPDES Permit No. NE0024023 requires Respondent do the following:

- Any unanticipated bypass which exceeds any effluent limitation in this permit.
- Any upset which exceeds any effluent limitation in this permit.
- Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours.”

15. A Letter of Noncompliance (LNC) was issued to Respondent on August 12, 2022, for violations of Title 119, Title 123, and Respondent’s Permit. These violations were determined during a file review conducted on July 25, 2022, and inspection on July 28, 2022. The violations which are of on-going concern include:

A. Failure to comply with monitoring and reporting requirements.

i. Noncompliance reports were not submitted for permit exceedances occurring during the July through August 2021 monitoring period.

B. Failure to comply with numeric limitations. Effluent limitations were exceeded during the July through August 2021 monitoring period for the parameters listed in Permit Part I. A. Table 1 and Part I B. Table 3.

C. Failure to comply with operation and maintenance requirements. The facility is not maintained in proper operating condition that meet all NPDES permit requirements or provide sufficient backup operation.

16. A Letter of Noncompliance – Further Action Required was sent to Respondent on September 15, 2022. The Respondent was found to remain out of compliance with Titles 119, 123, and Respondent’s Permit. The following items were still outstanding and needed to be remedied immediately upon receipt of the LNC:

A. Noncompliance reports for numeric exceedances need to be submitted for March, April, May, and June of 2022.

19. Respondent is out of compliance with NPDES Permit No. NE0024023 for Total Suspended Solids (TSS) levels. Part I. A. Table 1 of the permit sets the discharge limits as 30 mg/L and 11.35 kg/day for the monthly average and 45 mg/L and 17.03 kg/day for the weekly average.

20. Respondent had the following exceedances (highlighted in yellow) for TSS:

Date	Monthly Average mg/L	Monthly Average kg/day	Weekly Average mg/L	Weekly Average kg/day
11/30/2020	36			
1/31/2021	33			
2/28/2021	31			
3/31/2021	31			
4/30/2021	70	51.8	70	51.8
6/30/2021	55	33.78	55	22.78
7/31/2021	54	30.36	54	30.36
8/31/2021	32			
3/31/2022	40	15.54	40	
4/30/2022	136	55.35	136	55.35
5/31/2022	74	29.29	74	29.29
6/30/2022	144	59.67	144	59.67
7/31/2022	48	28.9	48	28.9
9/30/2022	45	19.98		19.98
10/31/2022	44	17.58		17.58
11/30/2022	33			
12/31/2022	62	25.69	62	25.69
1/31/2023	59	24.4	59	24.4
2/28/2023	46	16.67	46	16.67

21. Respondent is out of compliance with NPDES Permit No. NE0024023 for high Carbonaceous Biochemical Oxygen Demand (5-Day) (CBOD) levels. Part I. A. Table 1 of the permit sets the discharge limits as 25 mg/L and 9.46 kg/day for the monthly average and 40 mg/L and 15.14 kg/day for the weekly average.

noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- B. Within 30 days from the date of this order, provide a comprehensive report from JEO Consulting Group or any other engineering firm hired to complete work at the facility, which includes an analysis of why the exceedances have occurred at the facility, a time for repairs to be completed at the facility, the repairs which are needed at the facility, a list of all parts and equipment to be replaced, and any other pertinent information.

25. Respondents shall report to the Department by November 30, 2023, documenting how compliance with paragraph 25 of this Order has been achieved. If compliance has not been achieved, the report shall document why the facility is not in compliance, what action needs to be taken to bring the facility into compliance, and when the facility will be in full compliance.

26. Respondents shall respond promptly to any written communication by the Department. Any delay in responding to such communication shall be construed as non-compliance with this Order.

27. Information to be submitted under this Order shall refer to FID # 71521 and shall be sent to:

Reuel Anderson
NDPES Compliance Section
Nebraska Department of Environment and Energy
PO Box 98922
245 Fallbrook Blvd.
Lincoln, NE 68509-8922
402-471-2186

XI. EFFECTIVE DATE

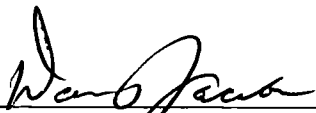
33. This Consent Order shall become effective on the date it is signed by the Director of the Department.

XII. SEVERABILITY

34. If any provision or authority of this Consent Order or the application of the Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the remainder of the Consent Order shall remain in force and shall not be affected thereby.

XIII. SIGNATURES

For the Respondent: The undersigned representative of Oakland, Nebraska, certifies that he is fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent.

By: 
~~Fred Beckner, Mayor~~ Dan Jacobs, Mayor
City of Oakland

Date: June 30, 2023

For the Department: IT IS ORDERED and agreed this 10th day of July, 2023.

By: 
Jim Macy
Director
Department of Environment and Energy